

MARSHALS' FEES.

FROM THE DETROIT DAILY ADVERTISER.

CIRCUIT COURT OF THE UNITED STATES
FOR THE DISTRICT OF MICHIGAN.

The United States vs. Joshua Howard, late Marshal of Michigan.—Action of assumpsit to recover balance due from defendant of \$1,113.13 in his hands, for which he had presented vouchers, which were rejected by the accounting officers in Washington, although they were duly certified, taxed, and allowed by the court or one of the judges thereof. After the presentation of such vouchers, all of which, save one, had been presented to the Auditor and Comptroller, and by them rejected as credits to the defendant, the court charged the jury on the several points presented by the counsel for the defendant as follows, to wit:

1. That all vouchers for the legal fees of the clerk, attorney, marshal, witnesses, and jurors, in "criminal prosecutions," if certified and examined by the court or one of the judges thereof, must be passed in the usual manner and at the amount thereof paid out of the Treasury of the United States, and that the jury must find that the defendant had such items, and that the certificate and examination by the court or judge in such cases, under the 4th section of the act of 1792, is conclusive of the legality of said fees, and final; and that the accounting officers at Washington cannot look behind that certificate.—Act 8th May, 1792, sec. 4, vol. 1, Statutes at Large, on page 377. Opinion of Judge Story and Chief Justice Taney, on the 11th of the clerk's office.

That by the 4th section above referred to the Judge is made the auditing officer of the Treasury Department; as such as any other auditor in the Treasury Department at Washington. When accounts are allowed and examined by the Judge, we instruct you to give credit to the defendant. Congress has clothed the Judge with authority as an auditing officer, and as the one most competent to judge; and if accounts are once allowed, are to be paid.

They cannot go behind the certificate of the Judge at Washington, and if he, the Judge, or court, has passed on the account, the door is closed against the Government; it is final and conclusive.

2. That the compensation of the marshal and other officers of the Court in civil cases in this district do not require the examination and certificate of the Judge, but are fixed by the act of 1841, which provides that "for any services (including the compensation for mileage) performed by said officers (marshal, clerk, and attorney) in the discharge of their official duties, for which no compensation was provided by the law of the State of Michigan on the 3d of March, 1841, (the day of the passage of said act,) such officers shall receive such fees as are now (March 3, 1841) allowed by law, according to the existing usage and practice of the said courts of the United States."—U. S. Statutes at Large, volume 6, page 437.

3. That on the 3d of March, 1841, the day of the passage of said act, there was no compensation allowed by the laws of the State of Michigan to either the sheriff, clerk, or attorneys of the State courts, and that consequently the compensation of the marshal, clerk, and attorney in civil cases pending in the courts of this district are to be taxed and allowed "according to the existing usage and practice of said courts of the United States" on the 3d of March, 1841.

4. That the practice and usage so existing in the Courts of the United States on the 3d of March, 1841, was established in civil cases by the act of Congress of March 3, 1841, and all rejected items in the defendant's account for legal fees, taxed and allowed according to the said rules, were "allowed by law, according to the usage and practice of the Courts of the United States" on the 3d of March, 1841, and that the defendant is entitled to a credit for each voucher so taxed and allowed.

5. That if the jury find that the vouchers allowed in "criminal prosecutions," that the same have been examined and certified by the court or one of the judges thereof, they will allow to the defendant all such vouchers; and if they find, from the vouchers allowed by the defendant in civil cases, that the same are taxed and certified, "according to the usage and practice of the Courts of the United States" on the 3d of March, 1841, they will then allow all such vouchers as credits to the defendant.—Act of 1792.—Act of March 3, 1841.

After hearing the charge of the Court the jury retired, and after a few minutes' consultation, allowed to the defendant all the costs rejected by the Court, and rendered a verdict in favor of the United States for \$33.50 cents.

GEORGE C. BATES, U. S. District Attorney, for plaintiff;
D. B. DUFFIELD, Esq. for defendant.

NEW CURE FOR CONSUMPTION.

We find the following statements in the Mobile Herald and Tribune, and, if substantiated, the discovery will be invaluable, especially in this section of the country. We regret that the quantity of the medicine to be administered at a dose is not given:

In the first number of the New Orleans Monthly Medical Register, which we noticed a few days ago, we find an article by Professor Stone on the virtues of "Phosphate of Lime in Scrophulous and other depraved states of the system," which is of some moment. It was suggested by an essay in the London Lancet on the "physiology and pathology of the osseous and phosphatic of lime, and their relation to the formation of cells."

"The conclusions of the author," says Professor Stone, "are based upon careful chemical research and results from the use of the remedy. His researches show that in man, as well as in vegetables and inferior animals, phosphate of lime as well as albumen and fat is absolutely essential for the formation of cells, and he considers that the pathological states of the system depend upon a deficiency of this salt. The affections in which it is advised are ulcerations dependent upon a general dyscrasia, and not a mere local affection; infanility, atrophy, in those suffering from rickets and consequent diarrhoea and tuberculous diseases, particularly of the lungs in the early stages."

Struck by this article, Prof. Stone tested it, and he thus describes three cases in which its virtues were very obvious. The first was that of a slave, who was admitted to the Professor's infirmary in July, with a disease of the nose, the whole system showing great progress in scrophulous decay. The usual remedies were used, but without success. The phosphate of lime was then administered with cod liver oil, and the result was rapidly getting well.

The second case was that of a child seven years of age, in which the phosphate of lime was used with complete success. The third case was that of a young lady aged 24. Her disease was one of "unmixed phthisis," which might have been expected to terminate in the course of a few months' fatality. The upper part of both her lungs was filled with tubercles, and in some places beginning to soften. The case was evidently a bad one. The treatment of cod liver oil was at first used, but without marked improvement. The phosphate of lime was then administered with the oil, and the result, as in the case of the negro, was soon apparent. The patient was rapidly getting well.

KOSUTH AND GENIE.—The newspapers, full-mouthed, have opened in praise of Genie, the latter—who, since his purchase of a seat at the first Lind concert for six hundred dollars, more or less, has been a prominent person in the eye of the public—in consequence of his proposal to contribute \$1,000 to a "Kosuth Fund," the plan of which contemplates the accumulation of \$100,000, to be invested for this exiled patriot. Kosuth, no doubt, deserves high praise, and every body who thinks so, and whose purse and heart can be moved by his noble and patriotic feelings, will be able at any moment to appropriate what he pleases to this liberal object. But we are inclined to think, with a writer in the National Intelligencer, that we shall then be doing much more for the foreign than we ever have done for the very greatest of domestic patriots. We have been living for seventy years on the time, the goodness, and the pulse services of WASHINGTON; our population has grown to thirty millions, who speak daily their stereotyped eloquence in his honor, and yet for fifteen years has an almost fruitless effort been made to raise the sum of \$150,000 for his monument! Our thirty millions of grateful patriots expend so much of their strength in their devotion to his memory, and veneration, that none remains for any vulgar practical illustration of it, such as "laying down the dust" would imply. The simple fact is, that most of these ostentatious schemes of benevolence and gratitude originate in a desire for notoriety. Vanity is the great motive power in all such projects. It is in order that all eyes may be upon her, that she gives her thousands in charities where they are assured of the publication of their good deeds, where, if the thing is to give a secret, you shall not be able to exert from them a sixpence for any sort of benevolence.—*Charleston News.*

MILITARY INSTRUCTIONS IN BRITISH REGIMENTS.—The Secretary of War, in the debate last session on the army estimates, expressed his belief that Parliament are long would be called on to furnish means by which the officers of the army might be enabled to obtain that amount of knowledge absolutely requisite before they ought to be promoted to the rank of captain. We have recently learned that it is the intention of the authorities to make early arrangements for appointing to regiments competent instructors, and that in the next session a bill will be proposed for that purpose. It seems that all intention of appointing to regiments as military instructors has been relinquished, and that as yet nothing definitive has been done, though many proposals and suggestions from high quarters have been submitted.

[London Herald and Military Gazette.]

SWALLOW BARN.

FROM THE "LITERARY WORLD."

SWALLOW BARN is such another reproduction of the life of Old Virginia as Bracebridge Hall is of the cheerful Old England. Both we fear are pictures of fading and half-forgotten existences; but they will remain happy types of the minds of their respective authors; genial, graceful views of human nature and social life; ideals which, even in the most troublous times, will be always more or less realized; for the heart will always answer to scenes of quiet and friendship, traits of domestic happiness, and carefully nurtured home humors. Mr. KENNEDY drew such a picture of life some twenty years ago in his Swallow Barn. He intimates to us now in the preface to the new edition of the work that all this romance of the Old Dominion is becoming traditional. It is doubtless so, and much to be regretted is the fact of the changes coming over our old national manners of the era of the Revolution; but we have the guarantee in the favorable reception of works of this class that the spirit is not extinct. Sure we are that what was amiable and happy in those old times will be reproduced again in new and stranger forms, perhaps, but in the ancient vitality.

The early manners of the American people, the exhibition of the sudden efforts of the liberty of the new world upon the culture of the old, the mixture of refinement and simplicity, the drawing-room planted in the forest, the courtier turned planter, the pampered Puritan worshipping in his own way, with the consequent train of family usages and the thousand interminglings of Europe with the virgin soil of the new country—these in their better development afford some of the finest topics for our romance-writers, where his privileges blend with the sober duties of the historian. We have one such picture of primitive manners—people call their primitive; but there was a world of anti-archaic culture for their growth—in Mrs. Grant's "Memoirs of an American Lady" of the Dutch colonies of the Hudson. Mr. Judd has given us some strong, vigorous touches of New England life in his Margret. Hawthorne has presented many traits less literally—yet his sombre fancy of a later era with far different circumstances. Mr. Kirkland's New Home is a faithful version.

Mr. Kennedy's book is and will remain a favorite picture of the South. Its very language is characteristic of the topic. You have a few sentences or closely-packed energetic writing, but a leisurely induction of incident and anecdote. These times come before us all: "Old Virginia never dies," and of a long summer afternoon or winter's fireside, Swallow Barn may be safely entertained as among the most cheerful of companions. Its sketches are commonly of the Irving type, amiable in temper, but not without an occasional touch of humorous satire to relieve them from the insipidity of dull egotism. In pleasant proof of this read the following bit at Virginia elegance. Frank Meriwether, one of the dramatic persons, the pegs upon which the author hangs his essays, is thus introduced near the commencement:

SPATTERWHITE DUBBS.

"I observe, moreover, that he has a constitutional fondness for paradoxes, and does not scruple to adopt and republish any aphorism that is calculated to startle one by its novelty. He has a correspondence with several old friends, who were with him at college, and who have now risen into an extensive political notoriety in the State; these gentlemen furnish him with many new currents of thought, along which he glides with a happy velocity. He is essentially meditative in his character, and somewhat given to declamation; and these traits have communicated a certain measured and deliberate periodicity to his discourse. I have frequently seen him after dinner sit back and forwards across the room for some moments, wrapped in thought, and then fling himself upon the sofa, and come out with some weighty doubt, expressed with a solemn emphasis. 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